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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,406	03/08/2004	Chad Aerts	3591-1347	9026

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CHICAGO, IL 60610

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/796,406

Applicant(s)

AERTS, CHAD

Examiner

Joseph F. Edell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 34-38 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 October 2006 has been entered.

Drawings

2. The drawings were received on 30 October 2006. These drawings are acceptable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-4 and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 and 8, "a third channel" is recited in claim 2, lines 4-5 and "a third channel" is recited claim 8, line 3. It is unclear whether the two limitations define the same structural element or define separate structural elements.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 8-12, 14-22, and 24-33, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,347,538 to Bloomberg.

Bloomberg discloses a furniture component that includes all limitation recited in claims 1-4, 8-12, 14-22, and 24-33, as best understood. Bloomberg shows a furniture component having a base element 6 (see Fig. 4) with an enlarged edge portion 9, a first securing member 14 with first and second arms and a first channel therebetween forming an inner surface disposed around the entirety of the edge portion, a fabric piece 13 disposed around at least a portion of the first securing member, a second securing member 19 with first and second arms and a second channel therebetween, a ridge (portion below bead 9 in Fig. 4) on the first securing member, a third channel (portion below bead 9 and the first securing portion ridge) on the second securing member, a first gripping member/second ridge (bending of edge 18) is defined in part by a channel in the first securing member and including a ridge extending toward the base element,

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and a second gripping member/fourth channel on the second securing member that engages the channel of the first gripping member wherein the enlarged edge portion is disposed in the first channel, and the first securing member is disposed within the second channel, the fabric piece secured between the first and second securing members, the ridge of the first securing member is disposed in the third channel, the third channel is defined in part by a gripping member, the base element forms part of a backrest of a chair, the bead 9 and cord 12 of the edge portion has a greater thickness than the base element, the opening direction of the first channel of the first securing member is in a different direction than the opening of multiple channels of the second securing member, the edge portion has a rounded bead portion, the piece of fabric is mechanically attached to the first securing member, the width of the inner surface of the first securing member's first channel is greater than the width of the edges of the first and second arms of the first securing member, the width of the edges of the first and second arms is smaller than the thickness of the enlarged edge of the base element, and the interior portion of the first securing member surrounding the bead 9 forms a first notch and the bending of edge 18 forms another notch spaced from the first notch.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloomberg in view of U.S. Patent No. 4,352,524 to Crosby.

Bloomberg discloses a furniture component that is basically the same as that recited in claims 5-7 except that the furniture component lacks fasteners securing the first securing member to the edge portion of the base element, as recited in the claims. Crosby shows a furniture component similar to Bloomberg wherein the furniture component has as base element 30 (Fig. 2) with an edge portion 41 (see Fig. 5), a first securing member 60 with first and second arms and a channel therebetween, and a screw fastener 80 securing the first securing member to the edge portion of the base element. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Bloomberg to include at least one screw fastener securing the first securing member to the enlarged edge portion of the base element, such as the furniture component disclosed by Crosby. One would have been motivated to make such a modification in view of the suggestion in Crosby that the at least one fastener unequivocally fixes the securing member to the edge portion of the base element.

With respect to claim 6, the duplication of parts for a multiplied effect has no patentable significance. Therefore, it would have been well within the purview and obvious to one of ordinary skill in the art at the time the invention was made to provide another oppositely facing fastener for enhancing the attachment of the first securing member to the edge portion of the base element.

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9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bloomberg in view of U.S. Patent No. 4,946,220 to Wyon et al.

Bloomberg discloses a furniture component that is basically the same as that recited in claim 13 except that the backrest lacks a pattern of holes, as recited in the claims. See column 2, lines 36-39 of Bloomberg for the teaching that the backrest has compliant material. Wyon et al. show a backrest similar to Bloomberg wherein the backrest (see Fig. 2) has a compliant material with a pattern of holes 7. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Bloomberg such that the backrest has a compliant material with a pattern of holes, such as the backrest disclosed by. One would have been motivated to make such a modification in view of the suggestion in Wyon et al. that the pattern of holes in the backrest aids in the removal of heat radiated by the body.

10. Claims 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloomberg.

Bloomberg discloses all the claimed structural features of the instant invention. Bloomberg lacks only the specifically recited method steps, as recited in claims 34-38. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time the invention was made to attach the piece of fabric to the furniture component of Bloomberg by the claimed method steps. Such a modification provides a conventional and efficient method of attaching the piece of fabric to the furniture component of Bloomberg.

Allowable Subject Matter

11. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Response to Arguments

12. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joe Edell
January 5, 2007